

AMENDED IN SENATE MARCH 21, 2011

**SENATE BILL**

**No. 422**

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**Introduced by Senator Wright**

February 16, 2011

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~~An act to amend Section 25511 of the Public Resources Code, relating to energy.~~ *An act to amend Section 121025 of the Health and Safety Code, relating to health reporting.*

LEGISLATIVE COUNSEL'S DIGEST

SB 422, as amended, Wright. ~~Energy: nuclear fission thermal powerplant; seismic safety.~~ *Reporting of certain communicable diseases.*

*Existing law prohibits the disclosure of public health records relating to HIV and AIDS, and the information contained in those records, with specified exceptions for public health purposes, including when the person who is the subject of the record is coinfectd with HIV/AIDS, tuberculosis, and a sexually transmitted disease, as specified, or when the disclosure is pursuant to a written authorization. Existing law requires a disclosure of these records or information to include only the information necessary for the purpose of the disclosure, and to be made only upon agreement that the information will be kept confidential and will not be further disclosed without written authorization.*

*This bill would expand, for specified public health purposes, the authority of local public health agencies to disclose information contained in public health records relating to HIV and AIDS, to include when the person who is subject of the record is HIV infected.*

~~Existing law requires the commission to review factors related to safety and reliability of a proposed thermal powerplant facility at a site, including seismic hazards at the site.~~

~~This bill would provide that a determination by the United States Nuclear Regulatory Commission (NRC) that a site and related facility of a nuclear fission thermal powerplant meets the seismic safety standards established by the NRC on or before January 1, 2012, is conclusive and binding on the commission as to its determination of whether the site and related facility are seismically safe.~~

Vote: majority. Appropriation: no. Fiscal committee: ~~no~~ yes.  
State-mandated local program: no.

*The people of the State of California do enact as follows:*

1     SECTION 1. Section 121025 of the Health and Safety Code is  
2     amended to read:

3     121025. (a) Public health records relating to human  
4     immunodeficiency virus (HIV) or acquired immunodeficiency  
5     syndrome (AIDS), containing personally identifying information,  
6     that were developed or acquired by a state or local public health  
7     agency, or an agent of that agency, shall be confidential and shall  
8     not be disclosed, except as otherwise provided by law for public  
9     health purposes or pursuant to a written authorization by the person  
10    who is the subject of the record or by his or her guardian or  
11    conservator.

12    (b) In accordance with subdivision (f) of Section 121022, a state  
13    or local public health agency, or an agent of that agency, may  
14    disclose personally identifying information in public health records,  
15    as described in subdivision (a), to other local, state, or federal  
16    public health agencies or to corroborating medical researchers,  
17    when the confidential information is necessary to carry out the  
18    duties of the agency or researcher in the investigation, control, or  
19    surveillance of disease, as determined by the state or local public  
20    health agency.

21    (c) Except as provided in paragraphs (1) to (3), inclusive, any  
22    disclosure authorized by subdivision (a) or (b) shall include only  
23    the information necessary for the purpose of that disclosure and  
24    shall be made only upon agreement that the information will be  
25    kept confidential and will not be further disclosed without written  
26    authorization, as described in subdivision (a).

27    (1) Notwithstanding any other provision of law, the following  
28    disclosures shall be authorized for the purpose of enhancing  
29    completeness of HIV/AIDS, tuberculosis, and sexually transmitted

1 disease coinfection reporting to the federal Centers for Disease  
2 Control and Prevention (CDC):

3 (A) The local public health agency HIV surveillance staff may  
4 further disclose the information to the health care provider who  
5 provides HIV care to the HIV-positive person who is the subject  
6 of the record for the purpose of assisting in compliance with  
7 subdivision (a) of Section 121022.

8 (B) Local public health agency tuberculosis control staff may  
9 further disclose the information to state public health agency  
10 tuberculosis control staff, who may further disclose the information,  
11 without disclosing patient identifying information, to the CDC, to  
12 the extent the information is requested by the CDC and permitted  
13 by subdivision (b), for purposes of the investigation, control, or  
14 surveillance of HIV *infections or HIV* and tuberculosis  
15 coinfections.

16 (C) Local public health agency sexually transmitted disease  
17 control staff may further disclose the information to state public  
18 health agency sexually transmitted disease control staff, who may  
19 further disclose the information, without disclosing patient  
20 identifying information, to the CDC, to the extent it is requested  
21 by the CDC, and permitted by subdivision (b), for the purposes of  
22 the investigation, control, or surveillance of HIV *infections or HIV*  
23 and syphilis, gonorrhea, or chlamydia coinfection.

24 (2) Notwithstanding any other provision of law, the following  
25 disclosures shall be authorized for the purpose of facilitating  
26 appropriate HIV/AIDS medical care and treatment:

27 (A) State public health agency HIV surveillance staff, AIDS  
28 Drug Assistance Program staff, and care services staff may further  
29 disclose the information to local public health agency staff, who  
30 may further disclose the information to the HIV-positive person  
31 who is the subject of the record, or the health care provider who  
32 provides his or her HIV care, for the purpose of proactively offering  
33 and coordinating care and treatment services to him or her.

34 (B) AIDS Drug Assistance Program staff and care services staff  
35 in the State Department of Public Health may further disclose the  
36 information directly to the HIV-positive person who is the subject  
37 of the record or the health care provider who provides his or her  
38 HIV care, for the purpose of proactively offering and coordinating  
39 care and treatment services to him or her.

(3) Notwithstanding any other provision of law, for the purpose of facilitating appropriate medical care and treatment of persons coinfectd with HIV, tuberculosis, and syphilis, gonorrhea, or chlamydia, local public health agency sexually transmitted disease control and tuberculosis control staff may further disclose the information to state or local public health agency sexually transmitted disease control and tuberculosis control staff, the HIV-positive person who is the subject of the record, or the health care provider who provides his or her HIV, tuberculosis, and sexually transmitted disease care.

(4) For the purposes of paragraphs (2) ~~and (3)~~ and (3), “staff” does not include nongovernmental entities.

(d) No confidential public health record, as defined in subdivision (c) of Section 121035, shall be disclosed, discoverable, or compelled to be produced in any civil, criminal, administrative, or other proceeding.

(e) (1) Any person who negligently discloses the content of any confidential public health record, as defined in subdivision (c) of Section 121035, to any third party, except pursuant to a written authorization, as described in subdivision (a), or as otherwise authorized by law, shall be subject to a civil penalty in an amount not to exceed five thousand dollars (\$5,000), plus court costs, as determined by the court, which penalty and costs shall be paid to the person whose record was disclosed.

(2) Any person who willfully or maliciously discloses the content of any confidential public health record, as defined in subdivision (c) of Section 121035, to any third party, except pursuant to a written authorization, or as otherwise authorized by law, shall be subject to a civil penalty in an amount not less than five thousand dollars (\$5,000) and not more than twenty-five thousand dollars (\$25,000), plus court costs, as determined by the court, which penalty and costs shall be paid to the person whose confidential public health record was disclosed.

(3) Any person who willfully, maliciously, or negligently discloses the content of any confidential public health record, as defined in subdivision (c) of Section 121035, to any third party, except pursuant to a written authorization, or as otherwise authorized by law, that results in economic, bodily, or psychological harm to the person whose confidential public health record was disclosed, is guilty of a misdemeanor, punishable by

1 imprisonment in the county jail for a period not to exceed one year,  
2 or a fine of not to exceed twenty-five thousand dollars (\$25,000),  
3 or both, plus court costs, as determined by the court, which penalty  
4 and costs shall be paid to the person whose confidential public  
5 health record was disclosed.

6 (4) Any person who commits any act described in paragraph  
7 (1), (2), or (3), shall be liable to the person whose confidential  
8 public health record was disclosed for all actual damages for  
9 economic, bodily, or psychological harm that is a proximate result  
10 of the act.

11 (5) Each violation of this section is a separate and actionable  
12 offense.

13 (6) Nothing in this section limits or expands the right of an  
14 injured person whose confidential public health record was  
15 disclosed to recover damages under any other applicable law.

16 (f) In the event that a confidential public health record, as  
17 defined in subdivision (c) of Section 121035, is disclosed, the  
18 information shall not be used to determine employability, or  
19 insurability of any person.

20 ~~SECTION 1. Section 25511 of the Public Resources Code is~~  
21 ~~amended to read:~~

22 ~~25511. (a) The commission shall review the factors related to~~  
23 ~~safety and reliability of the facilities at each of the alternative sites~~  
24 ~~designated in the notice. In addition to other information requested~~  
25 ~~of the applicant, the commission shall, in determining the~~  
26 ~~appropriateness of sites and related facilities, require detailed~~  
27 ~~information on proposed emergency systems and safety~~  
28 ~~precautions, plans for transport, handling and storage of wastes~~  
29 ~~and fuels, proposed methods to prevent illegal diversion of nuclear~~  
30 ~~fuels, special design features to account for seismic and other~~  
31 ~~potential hazards, proposed methods to control density of~~  
32 ~~population in areas surrounding nuclear powerplants, and such~~  
33 ~~other information as the commission may determine to be relevant~~  
34 ~~to the reliability and safety of the facility at the proposed sites.~~  
35 ~~The commission shall analyze the information provided by the~~  
36 ~~applicant, supplementing it, where necessary, by onsite~~  
37 ~~investigations and other studies. The commission shall determine~~  
38 ~~the adequacy of measures proposed by the applicant to protect~~  
39 ~~public health and safety, and shall include its findings in the final~~  
40 ~~report required by Section 25514.~~

1     ~~(b) Notwithstanding subdivision (a), for the purposes of~~  
2     ~~licensing and certification of a new nuclear fission thermal~~  
3     ~~powerplant or for a relicensing of an existing nuclear fission~~  
4     ~~thermal powerplant, a determination by the United States~~  
5     ~~Regulatory Commission that a site and related facility meets the~~  
6     ~~seismic safety standards established on or before January 1, 2012,~~  
7     ~~by the United States Nuclear Regulatory Commission for licensing~~  
8     ~~or relicensing of a nuclear fission thermal powerplant shall be~~  
9     ~~conclusive and binding on the commission as to its determination~~  
10    ~~of whether the site and related facility are seismically safe.~~